

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Anna Steel	Team: Team # 8	CCRB Case #: 200800816	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Thursday, 12/06/2007 11:44 PM	Location of Incident: § 87(2)(b)	Precinct: 70	18 Mo. SOL 6/6/2009	EO SOL 6/6/2009	
Date/Time CV Reported Wed, 01/16/2008 2:58 PM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Wed, 01/16/2008 2:58 PM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. POM Jason Goodman	18413	943315	070 PCT
2. Officers			070 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Albert Romano	22490	940667	070 PCT
2. SGT Edwidge Anatsui	00662	924802	070 PCT
3. POF Jennifer Velez	14800	943923	070 PCT
4. POM Anthony Biondolillo	17627	943004	070 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Jason Goodman	Force: PO Jason Goodman pointed his gun at § 87(2)(b)	§ 87(2)(b)
B.POM Jason Goodman	Force: PO Jason Goodman used physical force against § 87(2)(b)	§ 87(2)(b)
C. Officers	Abuse: Officers entered § 87(2)(b) § 87(2)(b) in Brooklyn.	§ 87(2)(b)
D.POM Jason Goodman	Abuse: PO Jason Goodman searched § 87(2)(b) § 87(2)(b) in Brooklyn.	§ 87(2)(b)

Synopsis

On December 6, 2007, at approximately 11:44 PM, § 87(2)(b) was in his residence, located at § 87(2)(b) in Brooklyn. He was with a female acquaintance, identified through the investigation as § 87(2)(b). § 87(2)(b) heard the sound of repeated kicking on his front door. § 87(2)(b) became hysterical and repeatedly and loudly remarked she wanted to leave the residence. § 87(2)(b) opened his front door. Officers, identified through the investigation as PO Jason Goodman, PO Albert Romano, PO Anthony Biondilillo and PO Jennifer Velez of the 70th Precinct, were standing in front of his door. PO Goodman allegedly pointed his firearm at § 87(2)(b)'s face (**Allegation A**). § 87(2)(b) stepped backwards and PO Goodman pushed § 87(2)(b) onto the ground (**Allegation B**). All four officers then entered his apartment (**Allegation C**). § 87(2)(b) alleged that PO Goodman searched his apartment for about fifteen minutes, during which time he heard the sound of his belongings moved about and drawers being opened (**Allegation D**). At the end of this search, PO Goodman discovered a firearm. PO Goodman then grasped § 87(2)(b)'s tee-shirt with both hands and dragged him out of the residence into the hallway (**Within Allegation B**). § 87(2)(b) and § 87(2)(b) were handcuffed and transported to the 70th Precinct. As a result of the incident, § 87(2)(b) was charged with criminal possession of a weapon, unlawful imprisonment in the second degree and criminal possession of marijuana.

§ 87(2)(b), § 87(2)(g)

This case was previously closed as complainant uncooperative on March 5, 2008, by panel 2A-2008. It was reopened on November 18, 2008, in response to a written request submitted by § 87(2)(b).

Summary of Complaint

§ 87(2)(b) is § 87(2)(b). § 87(2)(b) filed a complaint with the CCRB by phone on January 16, 2008, at 2:58 PM (encl. 5a – 5b). § 87(2)(b) filed a complaint with Internal Affairs on January 16, 2008, at 3:09 PM, generating log number 08-01978 (encl. 6a – 6b). § 87(2)(b) was interviewed at the CCRB on December 3, 2008 (encl. 7a – 7d). § 87(2)(b)'s statements have been combined with inconsistencies noted below.

On December 6, 2007, at approximately 11:44 PM, § 87(2)(b) was in his residence, located at § 87(2)(b) in Brooklyn. § 87(2)(b) was with three female acquaintances. § 87(2)(b) did not know these individuals' names or their contact information. § 87(2)(b) was wearing a tee-shirt and pants. He had fifty dollars in his front left pocket and between thirty to forty dollars in his front right pocket. § 87(2)(b) and his acquaintances had not consumed any alcohol or used any narcotics prior to the incident. § 87(2)(b) did have a bottle of wine in his residence, but it was unopened. § 87(2)(b) did not have any form of narcotics in his residence or in his possession at the time of the incident. § 87(2)(b) began playing music about fifteen minutes prior to the incident. The volume of this music was not very loud. After a brief period of time, two of § 87(2)(b)'s female acquaintances left his residence and did not witness the subsequent incident. § 87(2)(b) did not explain why two of his female acquaintances left his residence after such a short period of time.

While § 87(2)(b) was socializing with his remaining female acquaintance, who was identified through the investigation as § 87(2)(b), he heard what sounded like one person kicking repeatedly at his front door. There was a brief pause, during which time § 87(2)(b) turned down the volume of his music. The kicking then resumed at § 87(2)(b)'s door. § 87(2)(b) became hysterical and repeatedly and

loudly remarked that she wanted to leave § 87(2)(b)'s residence. § 87(2)(b) walked to his front door and looked through the peephole while § 87(2)(b) remained near § 87(2)(b)'s bed. He saw what appeared to be more than one uniformed police officer standing in front of his door. He heard a voice which stated, "Open the door. It's the police." § 87(2)(b) then opened the door. § 87(2)(b)'s front door was not damaged such that it could not be closed or locked as a result of being kicked.

Standing in the hallway outside of § 87(2)(b)'s residence were three uniformed police officers. These officers were identified through the investigation as PO Jason Goodman, PO Albert Romano, and PO Anthony Biondilillo of the 70th Precinct. While § 87(2)(b) did not mention a female officer present at the scene, the investigation also determined that PO Jennifer Velez of the 70th Precinct was present at the time of the arrest. § 87(2)(b) described PO Goodman as a white male who was about 6'2" tall, skinny, baldheaded with a moustache and had light colored eyes. § 87(2)(b) described PO Romano as a white male who was about 5'9" tall, medium build and had dark or black hair. § 87(2)(b) described PO Biondilillo as a white male who was about 5'4" to 5'6" tall. § 87(2)(b) could not describe his weight or hair color.

§ 87(2)(b) alleged that PO Goodman immediately pointed his firearm in front of his face, such that the barrel of the gun was suspended within inches of § 87(2)(b)'s nose (**Allegation A**). PO Goodman did not say anything to § 87(2)(b) or issue him any commands at this time. PO Goodman was holding his firearm in his right hand. § 87(2)(b) stepped back and PO Goodman then used to his left hand to push § 87(2)(b) onto the ground (**Allegation B**). § 87(2)(b) could not describe the exact manner in which he was pushed to the ground by PO Goodman or articulate where on his body PO Goodman pushed him. § 87(2)(b) explained that he had a preexisting left knee injury which, at the time of the incident, necessitated the use of a crutch. § 87(2)(b) had surgery on his knee sometime in 2006. This injury, in addition to the way in which PO Goodman pushed § 87(2)(b) caused him to fall to the ground.

§ 87(2)(b) landed on his knees and then on his side on the floor of his residence. PO Goodman then stepped over his body and into § 87(2)(b)'s residence (**Allegation C**). None of the officers asked for § 87(2)(b)'s permission to enter his residence. PO Romano and PO Biondilillo then also stepped over § 87(2)(b) and into his residence (**Within Allegation C**). § 87(2)(b)'s residence is a studio apartment. His front door opens onto small kitchen, to the right of which is a bathroom. Beyond the kitchen is a larger common area in which his bed, a dresser and a television set are located. § 87(2)(b)'s bed is suspended above the ground on a bed frame and it is possible to see under this bed when standing in the common area. § 87(2)(b) was lying on the ground such that his head and torso were in the common area while his lower body was in the kitchen area. None of the officers said anything as they entered § 87(2)(b)'s residence.

§ 87(2)(b) alleged that PO Goodman then began searching the common area of his residence upon entering the apartment (**Allegation D**). § 87(2)(b) explained that his face was pointed towards the floor. As a result, he did not specifically see the exact areas PO Goodman searched. § 87(2)(b) heard the sound of drawers being opened and the sound of his belongings being moved around. When § 87(2)(b) later returned to his residence, he observed that all of the drawers of his dresser had been open and various items on top of his dresser had been disturbed. § 87(2)(b) was standing in the common area during the search. Neither § 87(2)(b) nor § 87(2)(b) had been handcuffed at this point in the incident. PO Romano and PO Biondilillo did not participate in the search of § 87(2)(b)'s residence. When filing his complaint with the CCRB (encl. 5a – 5b), § 87(2)(b) contrastingly stated that all officers participated in the search of his residence.

The search PO Goodman conducted lasted about ten to fifteen minutes. None of the officers provided any sort of explanation for the reason his residence was searched. PO Goodman then remarked that he had discovered a firearm underneath § 87(2)(b)'s bed. § 87(2)(b) stated at the time of his interview with the CCRB that he did not have a firearm under his bed or in his residence at the time of the incident and further stated that he did not have a license to own a firearm. To the best of his knowledge, none of § 87(2)(b)'s female acquaintances had a firearm one the day of the incident. No drugs were discovered in § 87(2)(b)'s residence as a result of the search. PO Goodman ceased searching § 87(2)(b)'s residence after reportedly discovering the firearm. When filing his complaint with Internal Affairs (encl. 6a – 6b), § 87(2)(b) did not mention the search of his residence.

PO Goodman then grasped § 87(2)(b)'s tee-shirt with both hands over his torso and physically dragged him out of the residence and into the hallway, which caused the front of his tee-shirt to rip across his chest. In his complaint with Internal Affairs (encl. 6a – 6b), § 87(2)(b) contrastingly stated that he was dragged across the floor immediately after his front door was opened. § 87(2)(b) did not take a photograph of the damage sustained by his tee-shirt. § 87(2)(b) was initially dragged on his back. His hands were free at this time. Once he was dragged into the hallway, § 87(2)(b) turned over onto his stomach and placed his hands behind his back. PO Goodman then secured § 87(2)(b) in handcuffs.

§ 87(2)(b) was handcuffed after § 87(2)(b) but he did not see or know which officer secured her in handcuffs. § 87(2)(b) exited § 87(2)(b)'s residence after § 87(2)(b). Once in the hallway, § 87(2)(b) saw that three additional officers had responded to the scene. One of these officers was identified through the investigation as Sgt. Edwidge Anatsui of the 70th Precinct. § 87(2)(b) described her as a black female who was about 5'3" to 5'6" tall and of medium build. Neither Sgt. Anatsui or the officers she was with ever entered or searched § 87(2)(b)'s residence.

Once handcuffed, PO Goodman searched through § 87(2)(b)'s pants' pockets. While doing so, PO Goodman placed his knee on § 87(2)(b)'s lower back (**Within Allegation B**). In his complaint to Internal Affairs (encl. 6a – 6b), § 87(2)(b) contrastingly alleged that an officer stuck his knee in his back when he was first dragged across the floor. The manner in which PO Goodman pressed his knee into § 87(2)(b)'s back exacerbated preexisting lower back pain that, as a result of the incident, caused § 87(2)(b) to later develop urinary tract problems. § 87(2)(b) could not specify the exact date he began to experience problems with his urinary tract. Both § 87(2)(b) and § 87(2)(b) were then transported to the 70th Precinct.

At the 70th Precinct, PO Romano processed § 87(2)(b)'s arrest and took his fingerprints. § 87(2)(b) asked PO Romano why the officers had responded to his residence and PO Romano explained that they had responded to a complaint regarding loud music. § 87(2)(b) asked PO Romano why the officers had not simply asked him to lower the volume of his music, but PO Romano did not provide an explanation for the reasons the officers had entered his residence. § 87(2)(b) did not know whether § 87(2)(b) was released or processed at the precinct. § 87(2)(b) remained at the 70th Precinct for a short period of time and was then transported to Brooklyn Central Booking, § 87(2)(b), § 87(2)(a) 160.50. § 87(2)(b) informed medical personnel at Central Booking that he was not presently sick or injured and admitted to a prior history of mental illness and psychiatric hospitalization (encl. 18a – 18b).

§ 87(2)(b)

§ 87(2)(b) was briefly incarcerated at § 87(2)(b). He did not receive or seek medical treatment during this time, though he did not explain why. Once released from § 87(2)(b), § 87(2)(b) sought medical treatment at St. § 87(2)(b)'s Hospital regarding his lower back pain. § 87(2)(b) stated that it was at this time that he was diagnosed with a urinary tract problem. § 87(2)(b) also sought psychiatric treatment at Lutheran Medical Center. § 87(2)(b) explained that he sought psychiatric treatment because he has been experiencing nightmares, dizziness, anxiety and other mental issues as a result of the incident. When filing his complaint with Internal Affairs (encl. 6a – 6b), which was made over the phone on January 16, 2008, at 3:09 PM, § 87(2)(b) contrastingly stated that he was no longer experiencing back pain and had not been treated at the hospital. During his interview with the CCRB (encl. 7a – 7f), § 87(2)(b) stated that he had not yet retained a private attorney, but was contemplating filing a civil suit regarding the incident.

Results of Investigation

Attempts to Contact Additional Civilians:

§ 87(2)(b)

§ 87(2)(b) is a § 87(2)(b) female and was identified through her arrest report (encl. 10) as a witness in this case. The investigation made the following attempts to contact § 87(2)(b)

A requested Lexis Nexis check was returned to the investigator with negative results on January 18, 2008. A letter was sent to § 87(2)(b) on December 3, 2008. A Verizon subpoena was returned to the investigation on December 3, 2008, with one potential number for § 87(2)(b)'s address. Calls placed to this number demonstrated that it was not viable. A complaint report (encl. 11a – 11b) also provided a number for § 87(2)(b). Between December 3, 2008, and December 9, 2008, five calls were placed to this number. On the fifth call, a male individual stated that no one by § 87(2)(b)'s name used the number provided. A final contact letter was sent to § 87(2)(b) on December 9, 2008. On January 23, 2009, a check of the Cole's Directory yielded no additional contact information for § 87(2)(b) and a check via whitepages also yielded negative results. A check via BADS confirmed that § 87(2)(b) has not been arrested since the date of the incident and is therefore not presently incarcerated. A second final contact letter was sent to § 87(2)(b) on January 23, 2009. To date, § 87(2)(b) has not contacted the investigator regarding the incident and, in the absence of additional contact information, no further attempts to reach § 87(2)(b) could be made.

§ 87(2)(b)

§ 87(2)(b) was identified through communications records (encl. 19a – 19c). A call was placed to § 87(2)(b) on January 22, 2008. A letter was sent to § 87(2)(b) on December 3, 2008. Between this date and December 4, 2008, two calls were placed to § 87(2)(b) provided number. On December 4, 2008, the investigator reached § 87(2)(b). She acknowledged that she called 911 on the day of the incident but stated that she did not really remember the incident and did not want to provide a statement regarding the incident or be contacted in the future (encl. 24f). The investigation was therefore unable to obtain a statement from § 87(2)(b) regarding what led her to call 911 on the day of the incident.

Police Officer Statements:

PO Jason Goodman

PO Jason Goodman is § 87(2)(b) old. He is a § 87(2)(b). PO Goodman is assigned to the 122nd Precinct and has been a member of the service for two years. At the time of the incident, PO Goodman was assigned to the 70th Precinct. PO Goodman was interviewed at the CCRB on January 23, 2009 (encl. 14a – 14c). On the day of the incident, PO Goodman was assigned to impact and worked from 6:00 PM to 2:35 AM with PO Anthony Biondilillo in uniform and in radio motor patrol vehicle PO Goodman's memobook (encl. 13a – 13b) notes that at 11:16 PM, he responded to a 10-10 (possible crime) originating from § 87(2)(b). At 11:30 PM, he noted that two arrests were effected. At 11:40 PM, PO Goodman transported one female to the 70th Precinct. At 12:12 AM, PO Goodman resumed patrol.

CCRB Statement

On December 6, 2007, at approximately 11:16 PM, PO Goodman was conducting routine patrol with his partner, PO Anthony Biondilillo. They received a radio communication regarding a possible crime originating from § 87(2)(b) § 87(2)(b) in Brooklyn. PO Goodman recalled that the radio communication concerned a call for help, but did not recall whether the call was made from within § 87(2)(b) or a different apartment inside § 87(2)(b). There was no other information provided to PO Goodman within this radio communication. PO Goodman and PO Biondilillo responded to the location and assisted PO Albert Romano and PO Jennifer Velez, the unit assigned to the job. PO Romano and PO Velez were already at the door to § 87(2)(b) when PO Goodman and PO Biondilillo responded to the location.

PO Goodman and PO Romano stood side by side in front of the door to § 87(2)(b) and knocked on the door. A male voice from within the apartment told them to go away. PO Goodman and PO Romano knocked on the door again, identified themselves as police officers and asked whether everything was all right. PO Goodman and PO Romano continued knocking on the door for about thirty seconds. The male voice again told them to leave. PO Goodman had his firearm drawn at this time. He could not attest to whether any of the officers he was with had their firearms drawn as well. During the course of knocking, a

[REDACTED]

[REDACTED]

Shortly after kicking at the door, PO Goodman heard the locks on the door click open. The front door was then slightly opened a few inches and a male, subsequently identified through his arrest as § 87(2)(b) looked through the crack into the hallway. PO Goodman never pointed his firearm at § 87(2)(b). PO Goodman could not see past § 87(2)(b) into the apartment. PO Goodman and PO Romano pushed the front door the rest of the way open. § 87(2)(b) stepped back and began to retreat towards the back of the studio apartment behind him. The front door opened onto a kitchen area. Beyond and to the right of the kitchen was the main bedroom and living area of the studio apartment. PO Goodman and PO Romano stepped into the apartment and both grasped § 87(2)(b) by his arm, though PO Goodman did not recall which arm. PO Goodman and PO Romano then pulled § 87(2)(b) into the hallway. PO Goodman could not recall whether § 87(2)(b)'s tee-shirt was ripped at any point.

Once in the hallway, § 87(2)(b) threw a punch towards PO Goodman and PO Romano. This punch did not connect with either officer. § 87(2)(b) then began falling backwards. When PO Goodman and PO Romano reached for him, they were all caught off balance and fell together onto the ground. § 87(2)(b) landed on his side. PO Goodman and PO Romano then pushed him onto his stomach and placed him in handcuffs. PO Goodman and PO Romano then assisted § 87(2)(b) into a standing position and brought him back into the apartment. § 87(2)(b) was handcuffed as a safety precaution. PO Goodman explained that it was the officers' intentions to conduct an investigation concerning the reported calls for help in the radio communication, why the female individual had begun screaming, why § 87(2)(b) had struggled with the officers and also ascertain § 87(2)(b)'s involvement in this situation. PO Goodman did not know whether any officers had entered the apartment to safeguard the female while § 87(2)(b) was being handcuffed.

PO Goodman and PO Romano seated § 87(2)(b) on a couch in the rear of the studio apartment. One of the officers spoke with the female individual, subsequently identified through her arrest as § 87(2)(b). § 87(2)(b) PO Goodman did not recall who was speaking with § 87(2)(b) or whether any information regarding the incident was elicited from her during this time as his focus was on § 87(2)(b). PO Goodman recalled that § 87(2)(b) may have stated that she did not know § 87(2)(b). § 87(2)(b) was not handcuffed at this point. PO Romano and PO Goodman asked § 87(2)(b) why he had initially refused to open the door. § 87(2)(b) would not provide an explanation, aside from remarking that “nothing” when asked what was going on. They also asked him to explain the nature of his relationship with § 87(2)(b) and § 87(2)(b) stated that he did not know her. PO Goodman explained that § 87(2)(b) appeared nervous and the manner in which he was answering the officers’ questions seemed evasive.

During their discussion, § 87(2)(b) began to look towards his mattress, which was to the left of the couch. PO Goodman saw that his mattress was pushed off of the bedspring and the sheets had been pushed under the mattress as though someone had shoved something under the mattress. Due to the repeated manner in which § 87(2)(b) was looking under the mattress, PO Goodman suspected that something was concealed underneath it. PO Goodman suspected that § 87(2)(b) had some sort of weapon. PO Goodman confirmed that he feared for his safety. When asked whether it was a possibility that either § 87(2)(b) or § 87(2)(b) could gain control of a weapon, PO Goodman stated that even though § 87(2)(b) was handcuffed, he did not know whether there were any other individuals in the apartment. Additionally, § 87(2)(b) was not handcuffed and could theoretically have gone towards a weapon if any weapon was in the apartment. PO Goodman stated that none of the officers had searched anywhere in the apartment prior to this point and stated that there were areas of the apartment that he could not see, though he did not specify what these areas were or how large they were.

PO Goodman wanted to know what was under the mattress and why § 87(2)(b) was looking towards the mattress. PO Goodman stated that he suspected that a sex crime had either been committed on the bed or a

weapon was concealed underneath it. Based on the circumstances surrounding the officers' entry into the apartment and § 87(2)(b)'s behavior while being questioned, PO Goodman felt that 'something was wrong here.' PO Goodman asked § 87(2)(b) whether he could look under the mattress. § 87(2)(b) replied, "I don't give a shit. Look under the mattress." PO Goodman walked to the mattress, lifted it up and discovered a 9 millimeter firearm whose serial number had been defaced. The firearm was loaded. PO Goodman could not make out the manufacturer of the firearm. PO Goodman did not search anywhere else in the apartment and never looked in any drawers or cabinets. PO Goodman stated that no other officers searched anywhere in the apartment.

§ 87(2)(b) admitted to ownership of the firearm by stating, "It's my gun." Upon discovering the firearm, both § 87(2)(b) and § 87(2)(b) were placed under arrest and were removed from the apartment. Sgt. Edwidge Anatsui responded to the location to verify the arrests. PO Goodman believed that § 87(2)(b) was searched following his arrest, but did not recall whether any contraband was discovered on his person. PO Goodman never observed any injuries on § 87(2)(b) and never heard him complaint of knee or back pain. PO Goodman and PO Biondilillo transported § 87(2)(b) to the 70th Precinct. PO Goodman did not speak to § 87(2)(b) while in transport. Once § 87(2)(b) was lodged at the 70th Precinct, PO Goodman and PO Biondilillo resumed patrol at 12:12 AM. PO Goodman did not have any further interaction with either § 87(2)(b) or § 87(2)(b) on the day of the incident.

PO Albert Romano

PO Albert Romano is § 87(2)(b). PO Romano is assigned to the 70th Precinct and has been a member of the service for two years. PO Romano was interviewed at the CCRB on January 6, 2009. On the day of the incident, PO Romano was assigned to conditions and worked from 3:00 PM to 11:35 PM with PO Velez in uniform and in radio motor patrol vehicle 4199. PO Romano's memobook notes that at 11:13 PM he responded to § 87(2)(b). At 11:44 PM, he noted that two arrests were effected. At 1:57 AM, he read § 87(2)(b) his Miranda rights. At 2:34 AM, he read § 87(2)(b) her Miranda rights. At 4:20 AM, § 87(2)(b) complained of knee and back pain, refused medical attention and refused to sign a medical treatment of prisoner form.

Police Reports

PO Romano prepared the arrest report (encl. 9) and complaint report (encl. 11a – 11b) pertaining to § 87(2)(b)'s arrest. He noted that § 87(2)(b) was arrested on December 6, 2007, at 11:44 PM, at § 87(2)(b) in Brooklyn. PO Romano reported that he had responded to a dispute and knocked on the front door of § 87(2)(b) numerous times. § 87(2)(b) stated that he did not need an officer. PO Romano then heard a female voice from inside the apartment stating, "Please let me out" numerous times. Upon gaining entry and conducting an investigation, § 87(2)(b) was found in possession of a loaded defaced firearm. When searched incident to his lawful arrest, PO Romano found a quantity of marijuana in § 87(2)(b)'s possession.

PO Romano prepared the arrest report corresponding to § 87(2)(b)'s arrest (encl. 10). He noted that § 87(2)(b) was arrested on December 6, 2007, at 11:44 PM, at § 87(2)(b) in Brooklyn, where she was found to be in possession of a loaded firearm.

CCRB Statement

On December 6, 2007, at approximately 11:13 PM, PO Romano was conducting routine patrol with his partner, PO Jennifer Velez. They received a radio communication regarding either a possible crime or a dispute regarding § 87(2)(b) § 87(2)(b) in Brooklyn. PO Romano did not note the actual radio code pertaining to this job in his memobook and could not recall it at the time of his interview with the CCRB. The investigator informed PO Romano that a noise complaint had been reported by an individual residing in § 87(2)(b) § 87(2)(b). PO Romano did not recall the details of the radio communication. PO Romano and PO Velez responded to the location, as did PO Jason Goodman and an additional officer whose name PO Romano did not recall at the time of his interview.

PO Romano did not speak with anyone prior to responding to § 87(2)(b). PO Romano stood directly in front of the door. He could hear some sort of noise which did not sound electronic, but did not know at that time how many occupants were within the apartment. PO Romano knocked on the door while stating, "Police. Please open the door." A male voice behind the door replied, "No." PO Romano again knocked on the door while stating, "Sir, just please let us in, we're just checking to see if everyone's okay." The male voice again stated, "No." PO Romano knocked on the door a third time and stated that it would not take a long time. PO Romano then heard a female voice scream out, "Let me out! Let me out right now!"

PO Romano began kicking on the door. He explained that, as a result of the screaming, exigent circumstances had presented themselves which permitted him to enter the residence. PO Romano suspected that someone was either injured or being unlawfully imprisoned. PO Romano kicked on the door approximately five or six times. A male individual, subsequently identified through his arrest as § 87(2)(b), then unlocked the front door and opened it a few inches. PO Romano pushed the door open. PO Romano did not recall whether the door connected with § 87(2)(b)'s body when opened. The first thing PO Romano recalled seeing when the door opened was § 87(2)(b) standing in front of the door. There was a vestibule area to the right and to the left was the bedroom area of the studio apartment. PO Romano saw a female individual, subsequently identified through the incident as § 87(2)(b) standing by the bed.

Once the door opened, § 87(2)(b) stepped back into the main area of the studio apartment. PO Romano and his partners did not have their weapons drawn or pointed at § 87(2)(b) at this time. PO Romano never pointed his firearm at § 87(2)(b) during the incident. PO Romano reached out with both hands and grasped his tee-shirt. PO Romano then pulled § 87(2)(b) out of the apartment and into the hallway. PO Romano recalled that § 87(2)(b)'s tee-shirt was ripped slightly by the collar area, but did not recall whether it was ripped before or after PO Romano grasped it with both hands. PO Romano stated that he never purposefully ripped § 87(2)(b)'s tee-shirt. PO Romano brought § 87(2)(b) to the ground, with the assistance of the officers who had responded to the scene with PO Romano, in the hallway outside of his apartment. § 87(2)(b) resisted the officers by flailing his arms, tensing his body and loudly asking the officers what they were doing. PO Romano did not specify how the officers succeeded in bringing § 87(2)(b) to the ground. § 87(2)(b)'s chest was the first part of his body to land on the ground. PO Romano did not recall pressing his knee on the middle of § 87(2)(b)'s back.

PO Romano placed § 87(2)(b) in handcuffs and quickly frisked him to see whether he was carrying any weapons. PO Romano then assisted him into a standing position and escorted him back into his apartment. PO Romano sat § 87(2)(b) on a chair next to § 87(2)(b) which faced § 87(2)(b)'s bed. PO Romano explained that he brought § 87(2)(b) back into the apartment because § 87(2)(b) was still in the apartment and PO Romano wanted to determine why § 87(2)(b) had refused to allow the officers to enter and also why § 87(2)(b) had began screaming. § 87(2)(b) was secured in handcuffs as well, but PO Romano did not recall who placed her in handcuffs. § 87(2)(b) appeared frightened. The officers asked her why she had screamed. § 87(2)(b) then explained that she had repeatedly asked § 87(2)(b) to let her leave the apartment and he had refused.

During this time, PO Romano observed that § 87(2)(b) appeared very nervous. § 87(2)(b) began to perspire, his eyes were shifting back and forth and his overall demeanor was erratic. Given § 87(2)(b)'s behavior, PO Romano suspected that § 87(2)(b) was attempting to conceal something. Given the nature of the incident and the screaming which PO Romano had earlier overheard, PO Romano considered it likely that § 87(2)(b) had some sort of weapon. PO Romano asked § 87(2)(b) what was going on or whether he was attempting to hide something. § 87(2)(b) did not respond to his inquiries, but instead began staring at his bed. Due to the way in which § 87(2)(b) was looking at the bed, PO Romano determined that there was likely something concealed underneath it.

PO Romano walked to the bed and lifted up the lower right hand corner of the mattress. There was a 9 millimeter firearm sitting on top of the bedspring. PO Romano stated that he probably would not have been able to locate the firearm without lifting up the mattress. Upon subsequent examination of this firearm, PO Romano observed that the serial number had been filed off and that hollow point rounds were in both the

magazine and chamber, rendering the firearm immediately ready to discharge. PO Romano did not search in any other areas of § 87(2)(b)'s apartment and never looked through any cabinets or drawers. After discovering the firearm, PO Romano turned to § 87(2)(b) and presented it to him. § 87(2)(b) denied ownership of the firearm, as did § 87(2)(b). PO Romano explained that, prior to the discovery of the firearm, he was going to arrest § 87(2)(b) for unlawful imprisonment. PO Romano then called for his supervisor, Sgt. Edwidge Anatsui, to respond to the scene to verify the arrests.

When Sgt. Anatsui responded to the scene, PO Romano explained what had transpired during the incident to her. PO Romano then escorted both § 87(2)(b) and § 87(2)(b) out of the apartment. PO Romano searched § 87(2)(b) before placing him in his police vehicle. PO Romano did not discover any contraband as a result of this search. Both § 87(2)(b) and § 87(2)(b) were then transported to the 70th Precinct. When later searched at the precinct, PO Romano discovered a small bag of marijuana in § 87(2)(b)'s possession. § 87(2)(b), § 87(2)(a) 160.50

PO Romano voided § 87(2)(b)'s arrest once she was mirandized, questioned and determined to have nothing to do with the firearm. PO Romano attempted to question § 87(2)(b) regarding the firearm, but he refused to sign the reading of his Miranda rights. At approximately 4:20 AM, § 87(2)(b) began complaining of knee and back pain while in the holding cell. § 87(2)(b) did not give PO Romano any explanation for why he was experiencing pain or how he had sustained these injuries. § 87(2)(b) refused medical attention at the precinct and also refused to sign the medical treatment of prisoner form.

PO Jennifer Velez

PO Jennifer Velez is a § 87(2)(b). PO Velez is assigned to the 70th Precinct and has been a member of the service for two years. PO Velez was interviewed at the CCRB on February 4, 2009 (encl. 16a – 16c). On the day of the incident, PO Velez was assigned to conditions and worked from 4:00 PM to 12:00 AM with PO Romano in uniform and in a marked police vehicle. PO Velez's memobook (encl. 15a – 15b) notes that she responded to a dispute at 11:13 PM at § 87(2)(b) § 87(2)(b). At 11:44 PM, PO Velez reported that two arrests had been effected.

CCRB Statement

On December 6, 2007, at approximately 11:13 PM, PO Velez was conducting routine patrol with her partner, PO Albert Romano. They received a radio communication regarding a dispute at § 87(2)(b) § 87(2)(b) in Brooklyn. PO Velez and PO Romano responded to the scene and were the first unit to arrive at the location. They were assisted by a second conditions unit, comprised of PO Jason Goodman and PO Anthony Biondillo, who arrived at the scene shortly after PO Velez and PO Romano on foot. PO Velez and the officers she was with did not speak to anyone prior to responding to § 87(2)(b). PO Romano and PO Goodman stood in front of the door to § 87(2)(b). None of the officers had their firearms drawn at this time. PO Velez heard the sound of a loud, screaming argument emanating from behind the door to § 87(2)(b).

PO Romano and PO Goodman knocked on the door several times. No one within the apartment verbally responded to their knocking. After about a minute to a minute and a half, PO Velez suddenly heard a female individual yelling, "Let me out! Let me out!" The officers knocked on the door again, which was then opened by a male individual, subsequently identified through his arrest as § 87(2)(b). None of the officers ever pointed their firearms at § 87(2)(b). None of the officers ever kicked on the front door of § 87(2)(b). PO Velez explained that it was the officers' intentions to enter the residence as the sound of the female individual yelling indicated to them that someone was in danger. When § 87(2)(b) opened the door, PO Romano and PO Goodman stepped inside the apartment and grasped § 87(2)(b). § 87(2)(b) was screaming and acting 'out of control,' but PO Velez could not recall what he was saying specifically. PO Velez did not recall where PO Romano and PO Goodman grasped § 87(2)(b) on his body.

§ 87(2)(b) began resisting by moving his arms away from PO Romano and PO Goodman as they attempted to restrain him in handcuffs. PO Romano and PO Goodman were eventually able to place him in handcuffs immediately inside his apartment. § 87(2)(b) was never pulled into the hallway. PO Velez did not recall whether § 87(2)(b)'s tee-shirt was torn during the brief struggle and nothing regarding § 87(2)(b)'s tee-shirt was familiar to PO Velez in any way. During the struggle, PO Velez and PO Biondilillo stood in the hallway. PO Romano and PO Goodman never brought § 87(2)(b) to the ground. PO Velez did not see any officers press their knees against § 87(2)(b)'s back. PO Velez never heard § 87(2)(b) complain of any knee or back pain at any point during the incident. Once § 87(2)(b) was handcuffed, PO Romano and PO Goodman escorted him to a couch in his apartment and assisted him into a seated position. PO Velez and PO Biondilillo entered the apartment at this time. PO Velez explained that § 87(2)(b)'s residence was a studio apartment. The couch was on the left wall, a bed was opposite the front door and a female individual, subsequently identified through her arrest as § 87(2)(b) was standing against the right door.

Once seated on the couch, PO Romano and PO Goodman began to question § 87(2)(b) about the reported dispute. PO Velez did not recall what questions were asked of § 87(2)(b) and did not recall what information, if any, PO Romano and PO Goodman were able to elicit from him. PO Velez did not recall whether any officers were speaking with § 87(2)(b) and did not recall whether she provided the officers with any information regarding the dispute. As PO Romano and PO Goodman spoke with him, § 87(2)(b) began to look repeatedly towards his bed. One end of the mattress was pushed aside, which indicated to PO Velez that § 87(2)(b) was likely hiding something underneath it. PO Velez did not recall what side of the mattress was off of the bedspring. PO Velez stated that she did not suspect that § 87(2)(b) possessed any weapons at this time, but did think that

PO Goodman asked § 87(2)(b) whether he could look under the mattress and § 87(2)(b) responded affirmatively. PO Goodman walked to the bed and lifted up the mattress. PO Romano did not assist him in doing so. Lying on the bedspring was a loaded firearm, though PO Velez did not recall the make or model of this firearm and did not know whether it had been defaced. PO Velez did not recall whether § 87(2)(b) offered any sort of explanation for the firearm or whether he claimed ownership of the firearm once it was discovered. Both § 87(2)(b) and § 87(2)(b) were then placed under arrest for criminal possession of a weapon. None of the officers searched any other areas of § 87(2)(b)'s residence. None of the officers ever looked in any cabinets or drawers. PO Velez handcuffed PO Velez. The officers remained in the apartment until Sgt. Edwidge Anatsui responded to the scene to verify the arrests. PO Velez frisked and searched § 87(2)(b) incident to her arrest during this time while other officers, either PO Romano or PO Goodman, frisked and searched § 87(2)(b).

Once the arrests were verified, § 87(2)(b) and § 87(2)(b) were escorted out of the building and each placed in different police vehicle. § 87(2)(b) was placed in PO Velez's vehicle. He was frisked again prior to being placed in the vehicle. PO Velez did not recall whether the frisk or search yielded any additional contraband. § 87(2)(b) was transported to the 70th Precinct. He did not say or do anything substantive while in transport. Upon their arrival at the precinct, PO Romano processed § 87(2)(b) and § 87(2)(b)'s arrest. PO Velez remained at the precinct, but did not have any additional contact with § 87(2)(b) or § 87(2)(b). PO Velez was not present at the precinct when § 87(2)(b)'s arrest was voided. Though PO Velez later learned that § 87(2)(b)'s arrest had been voided, PO Velez not recall the circumstances under which her arrest was voided.

Officers Not Interviewed by the Investigation

Statements and documentary evidence identified PO Anthony Biondilillo and Sgt. Edwidge Anatsui as present at § 87(2)(b) § 87(2)(b) on the day of the incident. PO Biondilillo is presently on extended military leave and was therefore not interviewed by the investigation. Sgt. Anatsui responded to the scene after § 87(2)(b)'s arrest. The investigation did not need to obtain a statement from either PO Biondilillo or Sgt. Anatsui in order to reach a determination regarding the allegations in this case.

Medical Records:

Pre-arraignment Screening Form

According to a pre-arraignment screening form prepared on December 7, 2007 (encl. 18a – 18b), § 87(2)(b) stated that he was not presently sick or injured. The form also noted that § 87(2)(b) had a history of mental illness, psychiatric hospitalization and medication and was presently taking five milligrams of Risperdol. Medical personnel noted that under a visual assessment that § 87(2)(b) was within normal limits.

Medical Records from St. § 87(2)(b) s § 87(2)(b)

§ 87(2)(b) stated at the time of his interview that he sought medical treatment from § 87(2)(b) Hospital in Manhattan regarding his lower back time and was diagnosed with a urinary tract problem. He stated that he also sought psychiatric treatment at § 87(2)(b) in Brooklyn regarding nightmares, dizziness, anxiety and other mental issues he began to experience as a result of the incident. The investigator verified the addresses of each hospital from which § 87(2)(b) stated he had sought medical treatment (encl. 7a – 7d). A subpoena was sent to each facility requesting a copy of any medical records pertaining to § 87(2)(b) between the dates § 87(2)(b). The subpoenas sent to St. § 87(2)(b) s § 87(2)(b) were subsequently returned to the investigator with a note stating that they had no record of § 87(2)(b) receiving medical treatment at these facilities (encl. 25d; encl. 25f).

Communications Records

According to the SPRINT record for December 6, 2007 (encl. 19a – 19c), § 87(2)(b) called 911 at 11:13 PM to report a dispute or fighting from § 87(2)(b) at § 87(2)(b). The operator noted that § 87(2)(b) resided in § 87(2)(b). At 11:19 PM, unit SP7 from the 70th Precinct arrived at the location. At 11:20 PM, unit SP41 from the 70th Precinct arrived at the location. At 11:27 PM, unit SP7 requested a sergeant to the location for arrest verification. At 11:27 PM, a patrol sergeant from the 70th Precinct responded to the location. At 11:44 PM, unit SP7 reported that two arrests had been made. At 11:44 PM, the patrol sergeant resumed patrol. At 11:45 PM, unit SP41 noted they were transporting a female individual to the stationhouse. At 12:15 AM, unit SP41 resumed patrol. At 8:03 AM, unit SP7 reported a 10-92C (crime arrest).

Police Department Documents:

70th Precinct Roll Call

The roll call for December 6, 2007 (encl. 20a – 20d), notes that Sgt. Anatsui was the assigned impact sergeant, PO Romano was assigned to a mobilization detail and PO Goodman, PO Biondilillo and PO Velez were assigned to impact.

70th Precinct Command Log

The command log for December 6, 2007 (encl. 21) notes that § 87(2)(b) was lodged in the 70th Precinct at 11:56 PM by PO Romano and had been arrested at § 87(2)(b) § 87(2)(b) for criminal possession of a weapon. Sgt. Anatsui was noted as the supervisor who had verified the arrest. His physical and mental condition was noted as apparently normal. It was also noted that § 87(2)(b) did not request medical treatment. § 87(2)(b) was transported to Brooklyn Central Booking on December 7, 2007, at 11:00 AM.

The command log also noted that § 87(2)(b) was lodged in the 70th Precinct at 11:56 PM by PO Romano and had been arrested at the same location and for the same charge as noted above. Her physical and mental condition was listed as apparently normal. The arresting officer noted that she was released from the precinct at 2:50 AM when her arrest was voided.

70th Precinct Prisoner Holding Pen Roster

The prisoner holding pen roster for December 6, 2007 (encl. 22) noted that § 87(2)(b) was lodged in the holding cells from 12:30 AM to 11:00 AM, at which point he was transported to Brooklyn Central Booking. The roster also noted that § 87(2)(b) was lodged in the holding cells from 12:30 AM to 2:45 AM, at which point she was released and her arrest was voided.

§ 87(2)(b), § 87(2)(a) 160.50

§ 87(2)(b)

Notice of Claim Inquiry

As of December 4, 2008, the Comptroller's Bureau of Law and Adjustment determined that a notice of claim with regard to the incident has not been filed by § 87(2)(b) or § 87(2)(b) (encl. 23).

Officer CCRB History

PO Jason Goodman has been a member of the service and has had no CCRB allegations substantiated against him.

Conclusions and Recommendations

Officer Identification

Statements and documentary evidence identified PO Goodman, PO Romano, PO Biondilillo and PO Velez of the 70th Precinct as present during the incident. The investigation determined that all four of these officers entered § 87(2)(b)'s residence. There was not a supervisor present at the time of the entry and it was unclear whose decision it was to enter § 87(2)(b)'s residence. An entry allegation has therefore been pleaded against 'officers' from the 70th Precinct.

§ 87(2)(b) alleged that an officer pointed his firearm at him, used force against him, and searched his residence. He described this officer as a white male who was about 6'2" tall, skinny, baldheaded with a moustache and light colored eyes. This corresponds with PO Goodman's physical description and PO Goodman additionally admitted to searching § 87(2)(b)'s residence and using force against him. Therefore, a gun pointed allegation and a force allegation have been pleaded against him.

Both PO Goodman and PO Romano admitted to searching underneath the mattress in § 87(2)(b)'s residence. However, § 87(2)(b) was clear in differentiating PO Goodman from PO Romano, the latter of whom he described as a white male who was about 5'9" tall, medium build had dark or black hair, and processed his arrest at the 70th Precinct. Therefore, a premises entered and searched allegation have been pleaded solely against PO Goodman.

Undisputed Facts

It is undisputed that § 87(2)(b) loudly and repeatedly stated she wanted to leave § 87(2)(b)'s residence. It is undisputed that officers entered § 87(2)(b)'s residence. It is undisputed that officers used force against § 87(2)(b) and secured him in handcuffs. It is undisputed that a firearm was discovered in § 87(2)(b)'s residence.

Disputed Facts

It is disputed whether PO Goodman pointed his firearm at § 87(2)(b). The manner in which force was used against § 87(2)(b) is in dispute. The point at which § 87(2)(b) was handcuffed is in dispute. It is disputed whether § 87(2)(b) consented to the search of his residence. The extent of the search of § 87(2)(b)'s residence is in dispute.

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

§ 87(2)(b), § 87(2)(g)

Allegations Not Pleaded

While § 87(2)(b) alleged that he was searched, this search took place incident to his lawful arrest and was therefore not pleaded. While § 87(2)(b) asserted that his tee-shirt was ripped, he was clear in stating that this was caused during the officers' attempts to remove him from his residence and place him in handcuffs. As § 87(2)(b) never stated that an officer deliberately ripped his tee-shirt, and as there was no evidence to suggest that this was the case, a property damaged allegation has not been pleaded.

While PO Romano admitted to using force against § 87(2)(b) in order to restrain him, § 87(2)(b) did not make any allegations of force against PO Romano. Therefore, a force allegation has not been pleaded against PO Romano.

Allegation A. PO Jason Goodman pointed his gun at § 87(2)(b)

§ 87(2)(b), § 87(2)(g)

However, PO Goodman admitted only to drawing his firearm, stated that his firearm was holstered when § 87(2)(b)'s front door was opened and PO Romano and PO Velez denied any officers drawing or pointing their firearms at any point in the incident. § 87(2)(b), § 87(2)(g)

Allegation B. PO Jason Goodman used physical force against § 87(2)(b)

§ 87(2)(b), § 87(2)(g)

PO Goodman explained that § 87(2)(b) was handcuffed as a safety precaution so that an investigation regarding the reported dispute and § 87(2)(b)'s screaming could be conducted. *People v. Hammonds* specifically notes that "appropriate force can be used to restrain the suspect once an officer effects a stop" (encl. 3a – 3f). While § 87(2)(b) was brought to the ground during the struggle, the officers' were consistent in stating that § 87(2)(b) resisted the officers' attempts to restrain him by flailing his arms and throwing one punch towards PO Goodman and PO Velez.

According to the Police Academy Curriculum's position regarding the use of force, minor physical resistance may be countered by "wrestling holds and grips designed to physically overpower" a particular subject (encl. 1). § 87(2)(b), § 87(2)(g)

. According to the findings reached in *People v. Djokaj*, an officer may physically seize an individual when investigating an emergency situation and also has the right to "restore or maintain the status quo during the emergency to control the dangerous or dynamic situation" (encl. 3a – 3f). § 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g), § 87(2)(a) 160.50

Allegation C. Officers entered § 87(2)(b) § 87(2)(b) in Brooklyn
Allegation D. PO Jason Goodman searched § 87(2)(b) § 87(2)(b) in Brooklyn

It is undisputed that officers entered § 87(2)(b) § 87(2)(b) in Brooklyn. § 87(2)(b), § 87(2)(g) § 87(2)(b). Absent a warrant, a search of a private residence will be held to be unreasonable unless the entry and subsequent search is executed under certain, exigent circumstances (encl. 3a – 3f). PO Goodman, PO Romano and PO Velez stated that the radio communication regarding a dispute in § 87(2)(b) § 87(2)(b)'s apartment, coupled with § 87(2)(b) § 87(2)(b)'s screaming to be removed from this apartment, provided them with reason to enter § 87(2)(b) § 87(2)(b)'s residence in order to ascertain whether she was in danger.

As articulated in *People v. Saunders*, “a police officer can enter premises without a warrant to protect individuals in distress, to assist victims of crimes that have just occurred, or to investigate suspicious signs of impending danger” (encl. 3a – 3f). Both § 87(2)(b) § 87(2)(b) and the officers interviewed by the CCRB confirmed that § 87(2)(b) § 87(2)(b) loudly and repeatedly yelled that she wanted to leave § 87(2)(b) § 87(2)(b)'s apartment. This was additionally documented in a subsequent arrest report (encl. 9) and complaint report (encl. 11a – 11b). § 87(2)(g) § 87(2)(g). *People v. Thatcher* also found that an officer may enter a room to determine whether its occupant is safe when a domestic dispute has been reported (encl. 3a – 3f). § 87(2)(b), § 87(2)(g) § 87(2)(b), § 87(2)(g).

Once in the apartment, PO Goodman searched underneath § 87(2)(b) § 87(2)(b)'s mattress, exposing a loaded firearm on the bedspring. *People v. Adams* has found that “during the investigation of an emergency situation, the police may search for weapons to protect themselves” (encl. 3a – 3f). PO Goodman affirmed that the circumstances under which he entered § 87(2)(b) § 87(2)(b)'s residence led him to fear for his safety. While *People v. Alling* cautions that an officer may not conduct a full-blown search when an individual is arrested in his premises under exigent circumstances, they note that an officer may seize evidence which is “within the immediate area of the defendant” (encl. 3a – 3f). § 87(2)(b), § 87(2)(g) § 87(2)(b), § 87(2)(g).

The Courts have made clear that “the scope and duration of the search must be limited by and reasonably related to the nature of the exigency” (encl. 3a – 3f). § 87(2)(b), § 87(2)(g) § 87(2)(b), § 87(2)(g).

As found in *People v. Mitchell*, “there must be some reasonable basis, approximating probable cause, to associate the emergency with the area or property to be searched” (encl. 3a – 3f). § 87(2)(b), § 87(2)(g) § 87(2)(b), § 87(2)(g).

§ 87(2)(b), § 87(2)(g)

Investigator:

Date:

Supervisor:

Date:

Reviewed by:

Date:

Reviewed by:

Date: